HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.10341 of 2001

03-08-2005

Between:

M/s. Sri Shirdi Saibaba General Stores,

Tadipatri and others.

…Petitioners.

And

The Government of A.P., rep.by its Secretary,

Food & Agriculture (Marketing) Department,

Secretariat, Hyderabad and others.

…Respondents.

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ORDER :

The petitioner are having Kirana and General Stores. Some of them are also having Flour Mills at Tadipatri, producing wheat products like Atta, Ravva and Maida on the flour. It is the case of the petitioners that they purchased wheat and other products from Tamil Nadu, Karnataka, Kerala and Maharashtra States and also from Food Corporation of India(FCI). When these goods are in transit from other States, they allege that respondents 2 to 4 are stopping the vehicles at the check-post for the purpose of collection of market fee under the provisions of Andhra Pradesh (Agricultural Produce & Livestock) Markets Committee Act, 1966 (for short 'the Act'). They assail the said action of the respondents and seek a direction to the respondents to refund the amount.

The question raised herein is squarely covered by a Division Bench judgment of this Court in **Modern Nutrition Company v. Agricultural Market Committee**. After referring to the relevant provisions of the Act, the Division Bench observed as under.

> "The important expression, to attract action at the check-post in case of transport of any agricultural produce, livestock or products of livestock, is, "purchased or sold in the notified market area". The condition that the agricultural produce, livestock or products of livestock were purchased or sold in the notified market area, do not in any manner change beyond the presumption in Explanation-I of Section 12 of the Act merely because a check-post is contemplated at which production of the receipt for the payment of prescribed fee in respect of notified agricultural produce, livestock or products of livestock to the market committee is contemplated. The expressions, following the above expression 'purchased or sold in the notified market area'. 'in respect of such notified agricultural produce…..to the market committee concerned' clearly envisage that fee shall be realizable by the concerned market committee only if the agricultural produce, livestock or products of livestock are purchased or sold in the notified market area."

Following the same, the writ petition is allowed and the respondents are directed not to collect the market fee on the goods in transit purchased from other States and passing through the notified market area. However, if respondents 2 to 4 have collected any market fee, the petitioners are not entitled for refund of the same. No costs.

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(V.V.S. RAO, J.)

03-08-2005.

Msr.

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(Msr)